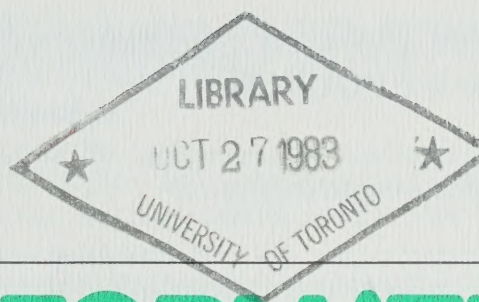
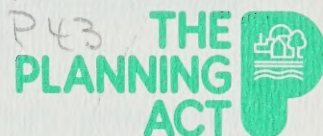




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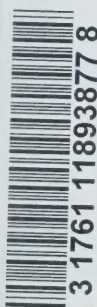
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Publications

INFORMATION BULLETIN 2

JANUARY 1983



GUIDE FOR MUNICIPAL CLERKS

When the new *Planning Act* comes into force, all municipalities will have to make some changes in the way community planning is carried out. This bulletin informs municipal clerks of the main duties required of them under the new Act. Many duties will remain the same as before, others will be revised, and some will be completely new. To ensure a smooth transition from the old to the new Act, all municipal clerks should make themselves familiar with the Act's requirements and be prepared to put them into effect.

This bulletin is based on clerks' duties in the order they appear in the Act. To determine specific duties by subject, an index is included.

SECTION 3: PROVINCIAL POLICY STATEMENTS

The new Act empowers the Province to issue policy statements on matters relating to municipal planning that are of provincial interest. Section 3 of the Act sets out the procedures for the issuance of policy statements, resulting in the following duties for municipal clerks:

- Upon receipt of a notice that a provincial policy statement has been approved, the municipal clerk should inform council and all appropriate municipal staff (subsection 3(3)).
- Upon receipt of a notice that a provincial policy statement has been approved, the municipal clerk **must** give notice of the statement to all local boards of the municipality that may have an interest in the statement (subsection 3(4)).
- Following the formal receipt of policy statements, the clerk **must** ensure that they are available to the public for reference. (Further information and materials will be sent to the clerk of each municipality to assist in this duty when the first policy statement is issued.)

SECTION 17: OFFICIAL PLANS AND AMENDMENTS PROPOSED BY COUNCIL

The municipal clerk plays an important role in the municipal official plan and amendment process. When performing these duties, two matters must be considered.

1. Under section 27 of the *Interpretations Act*, the clerk may delegate his responsibilities to a deputy clerk. All documents that require certification must be signed by the clerk or deputy clerk.
2. Wherever a time limit appears in the legislation, the clerk must ensure that the required actions occur within the stated time frame, in order to validate the proceeding.

Section 17 of the new Act sets out new procedures for the processing of an official plan or amendment, resulting in the following duties for the municipal clerk:

- *During the course of preparing an official plan or amendment, the municipality **must** hold a meeting to inform the public, as required by the Act, or alternatively comply with public involvement policies set out in the official plan itself. In either case, a public meeting will probably be held requiring that notice of the meeting be sent out. The responsibility for sending out this notice will likely rest with the municipal clerk. The requirements for this notice will either be through provincial regulation or as set out in the municipality's official plan (subsections 17(2) (3) (4)).*
- *The clerk will also likely be responsible for providing adequate information on the official plan or amendment to such boards, commissions, authorities or other agencies as the council considers may have an interest in the matter (subsection 17(5)).*
- *If council decides to adopt a plan or amendment, it must be submitted to the appropriate approval authority (i.e. the Minister or his delegate), and the following items must be in the submission:*
 - (a) a certified copy of the by-law adopting the plan;*
 - (b) a statement by an employee of the municipality certifying that the requirements for the giving of notice and the holding of a public meeting as mentioned in subsection (2) or as described in the provisions of the official plan mentioned in subsection (4), as the case may be, and, for the giving of notice as mentioned in subsection (8), have been complied with;*
 - (c) the original or true copy of all written submissions or comments and accompanying material received prior to the adoption of the plan; and*
 - (d) such other information or material as the Minister may require (subsections 17(6) (7)).*
- *When a plan or amendment is adopted by council, the municipal clerk **must** give notice of this within 15 days from the day the plan was adopted. Notice **must** be given to the Minister, to each person who filed with the clerk a written request to be notified and to each body that submitted comments and that in writing requested to be notified (subsection 17(8)).*

SECTION 18: OFFICIAL PLANS AND AMENDMENTS PROPOSED BY PLANNING BOARD (Northern Ontario)

The responsibility for preparing official plans and amendments in southern Ontario rests with the municipal council. In northern Ontario, however, this responsibility is still vested with planning boards.

- The clerk **must** comply with the duties established in subsections 17(2) to (8) as described above (section 18).

SECTION 20: LODGING OF OFFICIAL PLAN AND AMENDMENTS

In order that approved official plans or amendments are available to the public, section 20 of the Act requires the following:

- The clerk **shall** lodge two certified copies of the plan or amendment in the office of the Minister and one certified copy in the office of the clerk of each municipality specified by the Minister (subsections 20(1) (2)).
- This duty is performed by the municipal clerk except in the case where a plan or amendment applies to more than one municipality, in which case the clerk of the municipality with the largest population performs the required duty (subsection 20(2)).
- It will no longer be necessary to lodge official plans in land registry offices.

SECTION 21: AMENDMENT OR REPEAL OF OFFICIAL PLAN

- The same duties and responsibilities that the municipal clerk has under section 17, as described previously, apply to this procedure (subsection 21(1)).

SECTION 26: NEED FOR REVISION OF OFFICIAL PLAN

The new Act requires municipalities to hold a special meeting of council, open to the public, at least every five years, to determine the need for a revision to the official plan. This requirement should be brought to council's attention by the municipal clerk.

- The municipal clerk should advise council of the need for a five-year review of its official plan and **ensure** that notice of the meeting is published at least once a week in each of two separate weeks not later than thirty days before the date of the required meeting (subsection 26(2)).

SECTION 28: COMMUNITY IMPROVEMENT

Although the community improvement requirements are not part of the municipal official plan, subsection 28(4) requires that the same procedures for official plans apply to the processing of a community improvement plan.

- The same duties and responsibilities that the municipal clerk has under section 17, as described previously, apply to this procedure (subsection 28(4)).

SECTION 31: PROPERTY STANDARDS BY-LAWS

When any order has been issued by a municipal property standards officer against a property in violation of the municipal property standards by-law, the clerk of the municipality must perform the following duty:

- *When the requirements of the order have been satisfied, the clerk **shall** register in the proper registry office a certificate that such requirements have been satisfied (subsection 31(10)).*

SECTION 32: GRANTS AND LOANS—PROPERTY STANDARDS

This section empowers municipalities, which have a by-law under section 31, to make grants and loans to property owners who are in violation of the property standards by-laws. Section 32 of the Act results in the following duties for municipal clerks:

- *The clerk of the municipality may add to the collectors roll and collect in like manner as municipal taxes any loan (including interest) made under section 32.*
- *For any loan issued under this section, the municipal clerk **must** prepare a certificate, suitable for registration, setting out the amount, rate of interest, and description of the land that the loan or grant applies to (subsection 32(3)).*
- *Upon repayment of a loan, the municipal clerk **must** prepare a certificate, suitable for registration, in order to discharge the previous lien (subsection 32(3)).*

SECTION 33: DEMOLITION CONTROL

The provisions on demolition control in the former legislation have been carried over into the new Act. Municipal clerks have the following duties:

- *Upon failure to complete a new building within the time specified in a permit issued under subsection 33(6), the clerk of the municipality **shall** be entitled to enter on the collector's roll, to be collected in the same way as municipal taxes, a maximum of \$20,000 for each residential unit (subsection 33(7)).*
- *The clerk **must** prepare and register a certificate in the land registry office setting out the particulars of his action under subsection 33(7), and again when repayment takes place (subsection 33(8)).*
- *When a person requires an extension, or cannot comply with the time period set out in a demolition permit, the municipal clerk **must** receive notice from the person not less than sixty days before the time period specified in the permit expires (subsection 33(10)).*

SECTION 34: ZONING BY-LAWS

The role of the municipal clerk in the zoning process parallels closely the duties already described in the official plan process. Due to the importance and frequent use of this section, the duties are set out again:

- *Before passing a zoning by-law, the municipality **must** hold a meeting to inform the public as required by the Act, or alternatively comply with public notification policies in its official plan. In either case, a public meeting will probably be held requiring that notice of the meeting be sent out. The responsibility for sending out this notice will likely rest with the municipal clerk. The requirements for this notice will be through provincial regulation, if the notification requirements of the Act are followed, or as set out in the municipality's official plan (subsections 34(12),(13),(14)).*
- *The clerk will also likely be responsible for providing adequate information on the zoning by-law to such agencies as the council considers may have an interest in the matter (subsection 34(15))*
- *When the council passes a zoning by-law or amendment, the municipal clerk is **required** to give notice of this action within fifteen days from the day the by-law was passed. Notice must be given as set out in the provincial regulation (subsection 34(17)).*
- *Anyone who wishes to appeal a zoning action of a municipality **must** do so within thirty-five days of the passing of the by-law by filing with the municipal clerk an appeal setting out the objections and the reasons for them (subsection 34(18)).*
- *The municipal clerk may be required to issue an affidavit or declaration that notice was given as required and that no objections were received in order to validate the by-law (subsection 34(20)).*
- *Where an objection is filed with the municipal clerk, a record **shall** be compiled which **must** include:*
 - (a) a copy of the by-law certified by the clerk;*
 - (b) a sworn affidavit or declaration certifying that the notice requirements have been complied with; and*
 - (c) the original or a copy of all written submissions and other supporting material regarding the by-law received prior to it being passed. The clerk **shall** forward the notice of appeal and the record to the secretary of the Municipal Board and also provide such other information or material as the Board may require concerning the appeal (subsection 34(21)).*

SECTION 35: HOLDING BY-LAWS

A holding by-law is a by-law passed under section 34 that allows municipalities to incorporate provisions in a zoning by-law that permit certain future land uses to be effective only after specific conditions are met. The same duties and responsibilities, as described in section 34 apply.

- *See section 34*

SECTION 36: BONUS BY-LAWS

A bonus by-law is a by-law passed under section 34, which allows municipalities to permit increases in height and density of development in return for meeting a policy objective in the official plan. The same duties and responsibilities for zoning by-laws apply to bonus by-laws.

- *See section 34*

SECTION 37: INTERIM CONTROL BY-LAWS

Interim control by-laws are not zoning by-laws passed under section 34. However, they allow municipalities to place a temporary freeze on land uses for a specified period of time in order to allow a review of land use policies. The following duties for municipal clerks result:

- *After an interim control by-law has been passed, the municipal clerk **must** give notice of the passing of the by-law as set out in provincial regulation (subsection 37(3)).*
- *Persons or agencies who wish to appeal an interim control by-law must file with the clerk of the municipality a notice of appeal within sixty days of the passing of the by-law (subsection 37(4)).*
- *When a notice of appeal is filed, the municipal clerk **must** compile a record consisting of:*
 - (a) a copy of the by-law certified by him; and*
 - (b) an affidavit or declaration duly sworn certifying that the notice requirements in subsection (3) have been complied with (subsection 37(5)).*

SECTION 38: TEMPORARY USE BY-LAWS

A temporary use by-law is a by-law passed under section 34, which allows municipalities to permit land or buildings to be used for a temporary period of time. The same duties and responsibilities for zoning by-laws apply to bonus by-laws.

- *See section 34*

SECTION 39: CASH-IN-LIEU OF PARKING FACILITIES

By-laws passed in accordance with the provisions of this section allow municipalities to require the payment of cash instead of complying with car parking requirements in a similar manner to that provided for acquiring parkland. This could result in the following duty for the municipal clerk:

- *At the request of an owner of land involved in using the provisions of section 39, the clerk of the municipality **shall** provide a certificate, in a form registerable in the proper land registry office, certifying that the monies have been paid or that the agreement has been terminated (subsection 39(5)).*

SECTION 40: SITE PLAN CONTROL BY-LAWS

These provisions are similar to the existing process:

- *If the municipal clerk is responsible for registration of all municipal documents, an agreement entered into under subsection 40(8)(b) may be registered (subsection 40(10)).*
- *A landowner may refer a site plan matter to the O.M.B. if a municipality has failed to approve the plans within thirty days of submission or is not satisfied with the requirements made by the municipality. The landowner must notify both the O.M.B. and the municipal clerk in writing of this action (subsection 40(12)).*

SECTION 43: APPOINTMENT OF COMMITTEE OF ADJUSTMENT TO GRANT MINOR VARIANCES

- *The municipal clerk is **required** to forward by registered mail to the Minister within thirty days a certified copy of a by-law which constitutes and appoints a local committee of adjustment (subsection 43(2)).*

SECTION 44: POWERS OF COMMITTEE OF ADJUSTMENT

- *If no notice of appeal is filed in connection with the granting of a minor variance, the secretary-treasurer of the committee must file a certified copy of the decision with the municipal clerk (subsection 44(14)).*
- *Where all appeals in connection with the granting of a minor variance are withdrawn, the secretary-treasurer of the committee must file a certified copy of the decision with the municipal clerk (subsection 44(15)).*
- *Where an Ontario Municipal Board order is made in connection with the granting of a minor variance, the secretary-treasurer of the committee shall file a copy of the order with the municipal clerk (subsection 44(20)).*

SECTION 46: POWER OF MINISTER: ZONING, SUBDIVISION CONTROL

- *The Minister shall cause a duplicate or certified copy of a zoning order to be lodged in the office of the clerk of the municipality affected (subsection 46(6)(a)).*

SECTION 49: SUBDIVISION CONTROL

These provisions are similar to the existing process. Municipal clerks have the following responsibilities:

- *Where the council of a municipality passes a by-law under subsection 49(4) deeming a plan of subdivision not to be registered any longer, the clerk of the municipality **must** lodge a certified copy or duplicate copy of the by-law with the office of the Minister (subsection 49(22)) and in the proper land registry office (subsection 49(24)).*
- *Where the council passes a by-law under subsection 49(4), the clerk of the municipality **must** give notice of the passing of the by-law within thirty days of passing to each person appearing on the last revised assessment roll as the owner of the affected land (subsection 49(25)).*
- *If the municipal clerk receives notice, from a person who received notice under subsection 49(25), and who wishes to make a representation to council, within twenty days of the mailing of the notice, the council shall hear the person or agent (subsection 49(26)).*

SECTION 50: PLANS OF SUBDIVISION

- *If the clerk is the municipal employee responsible for registration of agreements, subdivision agreements may be registered against the land to which the agreement applies (subsection 50(6)).*

SECTION 52: CONSENTS

The major change to the land severance process is in where the authority to grant consents rests. The Act assigns authority to the councils of upper-tier municipalities, cities outside regions and separated towns. These councils have the option of retaining the approval authority or delegating it. The same options are available to municipalities within regions and counties, if the upper-tier municipality and the Minister agree to delegate to the lower-tier municipality. (See Information Bulletin 1 for additional detail.)

The implications for the municipal clerk depend on the option chosen by the municipal council. If the council chooses to grant consents itself, the municipal clerk may be responsible for the following duties:

- *The municipal clerk **must** ensure that the council confers with such agencies or persons as are prescribed by provincial regulation (subsections 52(2),(4)).*
- *Where a decision is made, the municipal clerk **must** notify of the decision within ten days of the decision, the following:*
 - (a) every agency or person conferred with under subsection 52(4) that in writing requested notice of the decision; and*
 - (b) the Minister, if he has notified the council in writing (subsection 52(5)).*
- *Where a decision is made to refuse a consent, the municipal clerk **must** notify within ten days of the decision, the following:*
 - (a) the applicant; and*
 - (b) the agencies and persons mentioned in subsection 52(5), other than the Minister (subsection 52(6)).*
- *A refusal notice **must** include written reasons for the decision (subsection 52(6)).*
- *An appeal on a consent **must** be submitted to the municipal clerk within thirty days of the decision (subsection 52(7)).*
- *Where an appeal has been filed, the municipal clerk is **required** to forward the following to the O.M.B.:*
 - (a) the notice of appeal;*
 - (b) the fee prescribed by the Board;*
 - (c) all papers and documents filed with the council relating to the matter; and*
 - (d) such other documents and papers as may be required by the Board (subsection 52(8)).*
- *Where a consent has been given, the municipal clerk is **required** to give a certificate to the applicant stating that the consent has been given (subsection 52(21)).*

SECTION 53: COUNCIL DELEGATION OF CONSENTS

Information Bulletin 1 includes details on section 53. Municipal clerks may expect the following duties to evolve from this section:

- *Where the Minister decides to withdraw the consent granting authority, written notice will be sent to the municipal clerk who in turn should notify the municipal council and appropriate committee or person who previously were performing this duty (subsection 53(3)).*

BILL 159: THE NEW PLANNING ACT

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